

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13480 of 2022

Arising Out of PS. Case No.-12 Year-2019 Thana- C.B.I CASE District- Patna

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NAVNEET KUMAR Son of Jai Narayan Sharma Resident of Village -
Garbhna, P.S. - Chanpatia, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar through Central Bureau of investigation, Patna. Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs.Soni Shrivastava, Advocate

For the Opposite Party/s : Mr.Avanish Kumar Singh, Advocate (CBI)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

8 01-02-2023 Heard Mrs. Soni Shrivastava, learned counsel for the

petitioner and Mr. Avaniash Kumar Singh, learned counsel who

represent the CBI.

Finally, the CBI came forward to file counter affidavit

bringing on record the material facts of the case.

The petitioner apprehends his arrest in connection

with R.C. Case No. 12(A)/19 for the offence registered under

Sections 419, 420, 467, 468 and 471 of the Indian Penal Code.

The prosecution story, in brief is/are that:

(i) the present case is said to have been initiated on

the basis of a written complaint submitted by Shri Sandip Das,

Superintendent (Vig.)/ DGV, EZU, Kolkata to the HOB,

ACB/CBI, Kolkata which was forwarded to the CBI/ACB,



Patna;

(ii) the allegation against the petitioner who is an Officer of the Indian Revenue Service (2008 batch) is that he secured the service on the basis of fake date of birth certificate;

(iii) the said FIR registered in the year 2019 alleges that the petitioner herein claims his date of birth is 15.06.1980 and further claims to have passed his matriculation examination in the year 1996, the intermediate exam in the year 2003 while graduated in the year 2008.

(iv) however, it is alleged that one Rajesh Kumar who is son of Shri Jay Narayan Sharma having the same residential address had passed his matriculation examination in the year 1991 and did his intermediate in the year 1993.

(v) it has been alleged that as the said Rajesh Kumar was over aged to appear for the UPSC exam, he changed his identity to Navneet Kumar and obtained certificates in the said name. In the process he was able to change his date of birth to 1980.

Learned counsel for the petitioner submits that documents available on record (the present petition) would show that all along his name appeared as Navneet Kumar and not Rajesh Kumar, this included the land documents, the



'Upnayan' ceremony. It is her further submission that the petitioner qualified the U.P.S.C. in one go and joined in the year 2008 and presently working to the full satisfaction of the office.

Learned counsel for the petitioner has further drawn the attention of the Court in the case of **Aman Preet Singh Vs. CBI** reported in **AIR 2021 SC 4154**. Paragraph Nos. 10 and 11 and judgment of **Satender Kumar Antil Vs. Central Bureau of Investigation and Anr.** reported in **(2021) 10 SCC 641** with reference to Paragraph-3 to submit that he has cooperated all along during the investigation and is ready to face the trial and putting him behind bar will only make him suffer as charge sheet already stands submitted.

Mr. Avanish Kumar Singh, learned counsel for the CBI, on the other hand, with the help of the counter affidavit submits that earlier he was known as Rajesh Kumar and as also appeared in different schools and documents to this effect are available with the CBI. Further, only because due to overage, he as could not have appeared in the UPSC, he changed his name and accordingly appeared and as such the base on which he is standing is fragile and thus does not deserve the relief.

From the materials on record the Court finds force in the argument put forward by the CBI that the petitioner failed



to satisfy whether Rajesh Kumar and Navneet Kumar are two persons or he is the same Rajesh Kumar who subsequently changed his name to Navneet Kumar.

However, the fact remains that the CBI registered the case in the year 2019, investigated the same, the petitioner was questioned, charge sheet submitted on 04.08.2021 and cognizance taken on 10.08.2021 and the matter is now pending before the Trial Court.

The paragraph nos. 10 and 11 of the **Aman Preet Singh Vs CBI (supra)** order of Apex Court read as follows:

10. Insofar as the present case is concerned and the general principles under Section 170 Cr.P.C., the most apposite observations are in sub-para (v) of the High Court judgement in the context of an accused in a non-bailable offence whose custody was not required during the period of investigation. In such a scenario, it is appropriate that the accused is released on bail as the circumstances of his having not been arrested during investigation or not being produced in custody is itself sufficient to entitle him to be released on bail.

11. The rationale has been succinctly set out that if a person has been enlarged and free for many years and has not even been arrested during investigation, to suddenly direct his arrest and to be incarcerated merely because charge sheet has been filed would be contrary to the governing principle for grant of bail. We



could not agree more with this.

Further in another judgment of Hon'ble Supreme Court in **Satender Kumar Antil Vs CBI & Anr.** (supra), the guidelines are as follows:

We are inclined to accept the guidelines and make them a part of the order of the Court for the benefit of the Courts below. The guidelines are as under:

Categories/Types of offences

(A) Offences punishable with imprisonment of 7 years or less not falling in Categories B and D.

(B) Offences punishable with death, imprisonment for life, or imprisonment for more than 7 years.

(C) Offences punishable under Special Acts containing stringent provisions for bail like NDPS (Section 37), PMLA (Section 45), UAPA [Section 43-D(5)], Companies Act [Section 212 (6)], etc.

(D) Economic offences not covered by Special Acts.

Requisite Conditions

(1) Not arrested during investigation.

(2) Cooperated throughout in the investigation including appearing before investigating officer whenever called.

(No need to forward such an accused along with the charge-sheet *Siddharth vs. State of U.P.*)

Category A

After filing of charge-sheet/complaint taking of cognizance

(a) Ordinary summons at the 1st



instance/including permitting appearance through lawyer.

(b) If such an accused does not appear despite service of summons, then bailable warrant for physical appearance may be issued.

(c) NBW on failure to appear despite issuance of bailable warrant.

(d) NBW may be cancelled or converted into a bailable warrant/summons without insisting physical appearance of the accused, if such an application is moved on behalf of the accused before execution of the NBW on an undertaking of the accused to appear physically on the next date/s of hearing.

(e) Bail applications of such accused on appearance may be decided without the accused being taken in physical custody or by granting interim bail till the bail application is decided.

Category B/D

On appearance of the accused in court pursuant to process issued bail application to be decided on merits.

Category C

Same as Categories B and D with the additional condition of compliance of the provisions of bail under NDPS (Section 37), Section 45 of the PMLA, Section 212(6) of the Companies Act, Section 43-D(5) of the UAPA, Pocso, etc.”

Thus in view of the aforesaid factors as also that the petitioner was not arrested during the period of investigation, taking into account the observation of the Hon'ble Supreme Court in **Aman Preet Singh Vs. CBI (supra)**, no fruitful



purpose will be served by putting him behind the bar particularly when the petitioner is ready to abide by all the terms and conditions and in the said backdrop, this Court is inclined to extend him the privilege of anticipatory bail

Let the petitioner in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 50,000/- (Fifty thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Magistrate, CBI, Patna in connection with RC Case No. 12 (A)/19 subject to condition as laid down under Section 438(2) of the Cr.P.C., with further conditions :

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the court concerned and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the CBI shall be at liberty to take steps for



cancellation of his bail bonds;

(iv) the petitioner shall surrender his passport, if any,

before the concerned Court.

(Rajiv Roy, J)

Jagdish/Neha/-

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